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**SENATE BILL 920**

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

**INTRODUCED BY**

**Leonard Lee Rawson**

**AN ACT**

**RELATING TO UNEMPLOYMENT COMPENSATION; PROVIDING THAT AN  
INDIVIDUAL SHALL NOT BE DISQUALIFIED FROM BENEFITS FOR LEAVING  
EMPLOYMENT BECAUSE OF A SPOUSE'S RELOCATION DUE TO MILITARY  
SERVICE.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 51-1-7 NMSA 1978 (being Laws 2003,  
Chapter 47, Section 10, as amended by Laws 2005, Chapter 3,  
Section 3) is amended to read:**

**"51-1-7. DISQUALIFICATION FOR BENEFITS. --**

**A. An individual shall be disqualified for and  
shall not be eligible to receive benefits:**

**(1) if it is determined by the division that  
the individual left employment voluntarily without good cause  
in connection with the employment. No individual shall receive**

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1 benefits until the division has contacted the former employer  
2 and determined whether the individual left the employment  
3 voluntarily; provided, however, that a person shall not be  
4 denied benefits under this paragraph:

5 (a) solely on the basis of pregnancy or  
6 the termination of pregnancy; ~~[or]~~

7 (b) because of domestic abuse evidenced  
8 by medical documentation, legal documentation or a sworn  
9 statement from the claimant; or

10 (c) if the person voluntarily left work  
11 to relocate because of a spouse, who is in the military service  
12 of the United States or the New Mexico national guard,  
13 receiving permanent change of station orders, activation orders  
14 or unit deployment orders;

15 (2) if it is determined by the division that  
16 the individual has been discharged for misconduct connected  
17 with the individual's employment; or

18 (3) if it is determined by the division that  
19 the individual has failed without good cause either to apply  
20 for available, suitable work when so directed or referred by  
21 the division or to accept suitable work when offered.

22 B. In determining whether or not any work is  
23 suitable for an individual pursuant to Paragraph (3) of  
24 Subsection A of this section, the division shall consider the  
25 degree of risk involved to the individual's health, safety and

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1 morals, the individual's physical fitness, prior training,  
2 approved training or full-time school attendance, experience,  
3 prior earnings, length of unemployment and prospects for  
4 securing local work in the individual's customary occupation  
5 and the distance of available work from the individual's  
6 residence. Notwithstanding any other provisions of the  
7 Unemployment Compensation Law, no work shall be deemed suitable  
8 and benefits shall not be denied under the Unemployment  
9 Compensation Law to any otherwise eligible individual for  
10 refusing to accept new work under any of the following  
11 conditions:

12 (1) if the position offered is vacant due  
13 directly to a strike, lockout or other labor dispute;

14 (2) if the wages, hours or other conditions of  
15 the work offered are substantially less favorable to the  
16 individual than those prevailing for similar work in the  
17 locality; or

18 (3) if, as a condition of being employed, the  
19 individual would be required to join a company union or to  
20 resign from or refrain from joining any bona fide labor  
21 organizations.

22 C. An individual shall be disqualified for, and  
23 shall not be eligible to receive, benefits for any week with  
24 respect to which the division finds that the individual's  
25 unemployment is due to a labor dispute at the factory,

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1 establishment or other premises at which the individual is or  
2 was last employed; provided that this subsection shall not  
3 apply if it is shown to the satisfaction of the division that:

4 (1) the individual is not participating in or  
5 directly interested in the labor dispute; and

6 (2) the individual does not belong to a grade  
7 or class of workers of which, immediately before the  
8 commencement of the labor dispute, there were members employed  
9 at the premises at which the labor dispute occurs, any of whom  
10 are participating in or directly interested in the dispute;  
11 provided that if in any case separate branches of work that are  
12 commonly conducted in separate businesses in separate premises  
13 are conducted in separate departments of the same premises,  
14 each such department shall, for the purposes of this  
15 subsection, be deemed to be a separate factory, establishment  
16 or other premises.

17 D. An individual shall be disqualified for, and  
18 shall not be eligible to receive, benefits for any week with  
19 respect to which, or a part of which, the individual has  
20 received or is seeking, through any agency other than the  
21 division, unemployment benefits under an unemployment  
22 compensation law of another state or of the United States;  
23 provided that if the appropriate agency of such other state or  
24 of the United States finally determines that the individual is  
25 not entitled to such unemployment benefits, this

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1 disqualification shall not apply.

2 E. A disqualification pursuant to Paragraph (1) or  
3 (2) of Subsection A of this section shall continue for the  
4 duration of the individual's unemployment and until the  
5 individual has earned wages in bona fide employment other than  
6 self-employment, as provided by rule of the secretary, in an  
7 amount equivalent to five times the individual's weekly benefit  
8 otherwise payable. A disqualification pursuant to Paragraph  
9 (3) of Subsection A of this section shall include the week the  
10 failure occurred and shall continue for the duration of the  
11 individual's unemployment and until the individual has earned  
12 wages in bona fide employment other than self-employment, as  
13 provided by rule of the secretary, in an amount equivalent to  
14 five times the individual's weekly benefit amount otherwise  
15 payable; provided that no more than one such disqualification  
16 shall be imposed upon an individual for failure to apply for or  
17 accept the same position, or a similar position, with the same  
18 employer, except upon a determination by the division of  
19 disqualification pursuant to Subsection C of this section.

20 F. As used in this section:

21 (1) "domestic abuse" means that term as  
22 defined in Section 40-13-2 NMSA 1978; and

23 (2) "employment" means employment by the  
24 individual's last employer as defined by rules of the  
25 secretary. "